

HOUSE No. 1486

By Mr. Jones of North Reading, petition of Bradley H. Jones, Jr., and others for legislation to establish a gaming commission and further regulate gaming in the Commonwealth. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

PETITION OF:

Bradley H. Jones, Jr.	Susan Williams Gifford
George N. Peterson, Jr.	Daniel K. Webster
John A. Lepper	Lewis G. Evangelidis
Elizabeth A. Poirier	Shirley Gomes
Donald F. Humason, Jr.	Richard J. Ross

In the Year Two Thousand and Five.

AN ACT RELATIVE TO GAMING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after
2 chapter 128C the following new chapter:

3 **CHAPTER 128D.**
4 **MASSACHUSETTS GAMING ACT.**

5 Section 1. Definitions.

6 The following words as used in this chapter shall, unless the
7 context clearly requires otherwise, have the following meanings:

8 (a) "Affiliate" means any person which a licensee or applicant
9 directly or indirectly controls or in which an applicant or licensee
10 possesses an interest. For the purposes of this section "controls"
11 means either (i) directly or indirectly holding more than ten per-
12 cent of voting membership rights or voting stock or partnership
13 interest, or (ii) that a majority of the directors, general partners,
14 trustees, or members of an entity's governing body are representa-

15 tives of, or are directly or indirectly controlled by, the licensee or
16 applicant. For the purposes of this subsection, “possesses an
17 interest in” means either (i) directly or indirectly holding more
18 than five percent of voting membership rights or voting stock or
19 (ii) that at least 25 percent of the directors, general partners,
20 trustees, or members of an entity’s governing body are representa-
21 tives of, or are directly or indirectly controlled by, the licensee or
22 applicant.

23 (b) “Applicant” means any person who on his own behalf or on
24 behalf of another has applied for permission to engage in any act
25 or activity which is regulated by the provisions of this chapter or
26 regulations promulgated thereunder.

27 (c) “Application” means a written request for permission to
28 engage in any act or activity, regulated under the provisions of
29 this act.

30 (d) “Bureau” means the gaming oversight bureau established by
31 this chapter.

32 (e) “Chairman” means the chairman of the gaming commission.

33 (f) “Commission” means the Massachusetts gaming commis-
34 sion.

35 (g) “Commissioner” means a member of the gaming commis-
36 sion.

37 (h) “Controlled game” or “controlled gaming” means any game
38 of chance played for currency, check, credit, or any other thing of
39 value that is not prohibited and made unlawful by chapter 271 of
40 the General Laws, or any other general or special laws, or by local
41 ordinance except:

42 (1) The game of bingo conducted pursuant to section 7A of 271
43 and C.M.R. 3.00.

44 (2) Pari-mutuel wagering on horse and dog races, whether live
45 or simulcast, regulated by the state racing commission.

46 (3) Any lottery game conducted by the state lottery commis-
47 sion, in accordance with chapters 10 and 24 of the General Laws.

48 (4) Games played with cards in private homes or residences in
49 which no person makes money for operating the game, except as a
50 player.

51 (i) “Date of Commencement” means the date when the racing
52 meeting licensee chooses to begin operations of electronic gaming

53 devices, as declared in the letter of intent sent to the secretary of
54 administration and finance.

55 (j) “Electronic Gaming Device” means any mechanical, elec-
56 trical or other device, contrivance or machine, including any so-
57 called slot-machine, video wagering terminal, video lottery
58 terminal or video poker machine, which, upon insertion of a coin,
59 token or similar object, or upon payment of any consideration, is
60 available to play or operate, the play or operation of which,
61 whether by reason of the skill of the operator in playing a gam-
62 bling game which is presented for play by the machine or applica-
63 tion of the element of chance, or both, may deliver or entitle the
64 person playing or operating the machine to receive cash, pre-
65 miums, merchandise, tokens or any thing of value, whether the
66 payoff is made automatically from the machine or in any other
67 manner.

68 (k) “Establishment” means any building, room, place or other
69 indoor or outdoor premises where any controlled gaming occurs,
70 including all public and non-public areas of any such establish-
71 ment.

72 (l) “Executive Director” the executive director of the gaming
73 oversight bureau.

74 (m) “Game” and “gambling game” mean any game approved by
75 the commission and played with equipment or any mechanical,
76 electro-mechanical or electronic device or machine, including a
77 slot machine, so-called, for money, property, checks, credit or any
78 representative of value, but does not include games played with
79 cards in private homes or residences in which no person makes
80 money for operating the game, except as a player, or games
81 defined within chapter 10 or chapter 271 of the General Laws.

82 (n) “Gaming”, “gambling” and “gaming operations” mean to
83 deal, operate, carry on, conduct, maintain or expose for play any
84 games as defined in this section.

85 (o) “Gaming device” means any equipment or mechanical,
86 electro-mechanical or electronic contrivance, component or
87 machine used remotely or directly in connection with gaming or
88 any game which affects the result of a wager by determining win
89 or loss.

90 (p) “Gaming employee” means any person employed in a prop-
91 erly licensed gaming facility connected directly with the operation

92 of the gaming including, without limitation, boxmen; dealers or
93 croupiers; floormen; machine mechanics; security employees;
94 count room personnel; cage personnel; slot machine and slot
95 booth personnel; collection personnel; surveillance personnel and
96 data processing personnel; or, any other person whose employ-
97 ment duties predominantly involves the maintenance or operation
98 of gaming activity or equipment and assets associated therewith or
99 who, in the judgment of the commission, is so regularly required
100 to work in a restricted area that licensure as a gaming employee is
101 appropriate.

102 The term “gaming employee” does not include any person
103 employed in a properly licensed gaming facility whose duties do
104 not involve gaming activities including without limitation bar-
105 tenders, cocktail servers, food preparation and service personnel,
106 hotel personnel, retail sales personnel, secretarial, janitorial, main-
107 tenance personnel, entertainers or other persons who, in the judg-
108 ment of the commission, are to be considered non-gaming
109 employees.

110 (q) “Gaming establishment” means any establishment licensed
111 to conduct gaming operations in the commonwealth under this
112 chapter.

113 (r) “Gaming license” or “license” means any license or work
114 permits issued by the commission under this chapter that autho-
115 rizes the person named therein to engage or participate in con-
116 trolled gaming, including work permits and licenses issued to
117 gaming establishments, to gaming suppliers, to parties in interest
118 to gaming schools, and to officers and directors of licensed per-
119 sons or entities.

120 (s) “Gaming revenue” means the wagering revenue from
121 gaming activities retained by the gaming entity after prizes or
122 winnings have been paid to players or to pools dedicated to the
123 payment of those prizes and winnings, and prior to the payment of
124 operating or any other expenses.

125 (t) “Gaming service industry” means any form of enterprise
126 which provides more than \$100,000 per annum in goods or serv-
127 ices regarding the realty, construction, maintenance, or business of
128 a proposed or existing gaming facility on a regular or continuing
129 basis which directly relate to gaming activities or indirectly relate
130 to gaming operations including, without limitation, junket enter-

131 prizes; security businesses; manufacturers; suppliers, distributors
132 and servers of gaming devices or equipment; waste disposal com-
133 panies; maintenance companies; schools teaching gaming and
134 either playing or dealing techniques; suppliers of alcoholic bever-
135 ages, food and nonalcoholic beverages; vending machine
136 providers; linen suppliers; shopkeepers located within the
137 approved hotels; limousine services; and construction companies
138 contracting with gaming applicants or licensees; provided, that
139 professional services such as accountants, auditors, attorneys, and
140 broker dealers, or other professions which are regulated by a
141 public agency, are exempt from the provisions of this subsection.

142 (u) “Holding company” means any corporation, firm, partner-
143 ship, trust, or other form of business organization not a natural
144 person that, directly or indirectly, owns, has the power or right to
145 control, or holds with power to vote, all or any part of the limited
146 partnership interests or outstanding voting securities of a corpora-
147 tion or any other business entity that holds or applies for a state
148 gambling license. In addition, a holding company indirectly has,
149 holds, or owns any power, right or security mentioned herein if it
150 does so through any interest in a subsidiary or successive sub-
151 sidiaries, however many of these subsidiaries may intervene
152 between the holding company and the corporate licensee or appli-
153 cant.

154 (v) “Intermediary company” means any corporation, firm, part-
155 nership, trust, or other form of business organization other than a
156 natural person that is both of the following:

157 (1) a holding company with respect to a corporation or limited
158 partnership that holds or applies for a gaming license, and

159 (2) a subsidiary with respect to a holding company.

160 (w) “Letter of Intent” means a letter that must be submitted by
161 each racing meeting licensee to the secretary of administration
162 and finance within 90 days of passage of this act for the purposes
163 of declaring the amount of electronic gaming devices the licensee
164 chooses to operate, not to exceed 1500, and the date when the
165 operation of the enumerated electronic gaming devices will begin.

166 (x) “License” means a gaming license, or a manufacturer’s or
167 distributor’s license.

168 (y) “License fees” means any money required by law to be paid
169 to obtain or renew a gaming license, manufacturer’s or distribu-
170 tor’s license, or gaming service industries license.

171 (z) “Licensed gaming facility” means any facility wherein all
172 gaming is sanctioned and regulated by the commission and fully
173 taxed by the commonwealth.

174 (aa) “Licensee” means any person to whom a valid gaming
175 license, manufacturer’s or distributor’s license has been issued.

176 (bb) “Manufacturer” means a person who: (1) manufactures,
177 assembles, programs or makes modifications to a gaming device
178 or cashless wagering system; or (2) designs, controls the design or
179 assembly or maintains a copyright over the design of a mecha-
180 nism, electronic circuit or computer program which cannot be rea-
181 sonably demonstrated to have any application other than in a
182 gaming device or in a cashless wagering system, for use or play in
183 this state or for distribution outside of this state.

184 (cc) “Manufacturer’s seller’s or distributor’s license” means a
185 license issued pursuant to this act to a manufacturer or distributor
186 of gaming equipment.

187 (dd) “Net gaming revenue” means the total, prior to the deduc-
188 tion of any operating, capital or other expenses whatsoever, of all
189 gaming revenue retained by any gaming establishment licensed
190 under this chapter less gaming taxes paid pursuant to this chapter.

191 (ee) “Off-track betting facility” means the facility at which off-
192 track wagers are accepted by the licensee of an off-track betting
193 system pursuant to the provisions of this act.

194 (ff) “Off-track betting system” means any person that is in the
195 business of accepting wagers on either horse races or dog races at
196 locations other than the place where such races are run, which
197 business is conducted pursuant to the provisions of this act.

198 (gg) “Operator” means any operator, holder, or controller of a
199 gaming license.

200 (hh) “Party in interest” means any corporation, firm, partner-
201 ship, trust, or other entity or person with any direct or indirect
202 pecuniary interest in a licensed gaming establishment, or a person
203 who owns any interest in the premises of a licensed gaming estab-
204 lishment, or land upon which such premises is located, whether he
205 leases the property directly or through an affiliate.

206 (ii) “Person” or “party” means a natural person, corporation,
207 partnership, limited partnership, trustee, holding company, joint
208 venture, association, or any business entity.

209 (jj) “Racing meeting licensee” the running horse racing meeting
210 licensee in Suffolk county, harness horse racing meeting licensee
211 in Norfolk county, and dog racing meeting licensees in Suffolk
212 and Bristol counties, licensed by the state racing commission pur-
213 suant to chapter 128 of the General Laws, as amended, to conduct
214 parimutuel racing during calendar year 2005, or their respective
215 assigns; provided, however, that the 2 dog racing meeting
216 licensees in Bristol County shall be deemed 1 for all purposes of
217 this act; and, further, excluding any licensees of racing meetings
218 held or conducted in connection with a state or county fair.

219 (kk) “Request for proposals” means a written document issued
220 by the commission to potential bidders, which invites bidders to
221 submit proposals outlining their qualifications and desire to obtain
222 a gaming license from the commission.

223 (ll) “Skimming” means the intentional excluding of or the
224 taking of any monies, chips, or any other items in an attempt to
225 exclude any monies, chips, or any other items or their value from
226 the deposit, counting, collection, or computation of gross revenues
227 from gaming operations or activities, net gaming proceeds, or
228 amounts due the commonwealth pursuant to this chapter.

229 (mm) “Substantial party in interest” means any person holding
230 a greater than 5 percent direct or indirect pecuniary interest,
231 whether as owner, mortgagor or otherwise, in an operating entity,
232 premises, or any other licensee or applicant.

233 (nn) “Temporary gaming license” means a license issued by the
234 gaming commission for an establishment to conduct gaming as
235 authorized in this chapter and which may be revoked or suspended
236 by the commission at any time.

237 (oo) “Work permit” means any card, certificate, or permit
238 issued by the Commission authorizing the holder to be employed
239 in a licensed gaming facility.

240 Section 2. Gaming commission; composition.

241 (a) There shall be established a Massachusetts gaming commis-
242 sion consisting of 7 members. Each member shall be a citizen of
243 the United States and a resident of the commonwealth. Pursuant

244 to the following provisions, a person shall not be eligible for
245 appointment to the commission if he or she:

246 (1) holds elective office in state, county, or local government.

247 (2) is an officer or official of any political party.

248 (3) is a licensee or an unlicensed employee of a gaming
249 licensee, or formerly was such a licensee or unlicensed employee
250 within the 5 years prior to an appointment to the commission.

251 (4) is actively engaged or has a direct pecuniary interest in
252 gaming activities.

253 (5) has been convicted of a felony.

254 Not more than 4 members of the commission shall be of the
255 same major political affiliation. The governor shall appoint 1
256 member to the commission and designate 1 member to serve as
257 chairman of the commission. The president and minority leader
258 of the senate shall each appoint 1 member to the commission. The
259 speaker and minority leader of the house of representatives shall
260 each appoint 1 member to the commission. The attorney general
261 of the commonwealth shall appoint 1 member to the commission.
262 The treasurer of the commonwealth shall appoint 1 member to the
263 commission.

264 (b) Of the members initially appointed, the member appointed
265 by the governor shall serve for an initial term of 5 years, the
266 member appointed by treasurer shall serve for an initial term of 5
267 years, the member appointed by the attorney general shall serve
268 for an initial term of 5 years, the member appointed by the presi-
269 dent of the senate shall serve for an initial term of 4 years, the
270 member appointed by the speaker of the house shall serve for an
271 initial term of 4 years, the member appointed by the minority
272 leader of the senate shall serve for an initial term of 3 years and
273 the member appointed by the minority leader of the house shall
274 serve for an initial term of 3 years. After the initial term, the term
275 of office for every member of the commission shall be 5 years;
276 provided, that no member may serve more than 2 consecutive 5-
277 year terms. Any vacancies shall be filled by the original
278 appointing authority within 60 days of the occurrence of such
279 vacancy. Any appointee shall continue in office beyond the expi-
280 ration date of his term until the appointment of a successor but in
281 no event longer than 6 months. Any commissioner may be
282 removed by his appointing authority for just cause. For purposes

283 of this paragraph, “just cause” shall mean misconduct, incompe-
284 tence, neglect of duty, maladministration of any act or omission
285 that impairs the ability of the commission to perform its responsi-
286 bilities. The governor shall immediately remove any commis-
287 sioner if he, after being appointed, violates or acts contrary to the
288 eligibility requirements established in subsection (a) of this
289 section.

290 (c) The commission members shall devote time and attention to
291 the business of the commission as is necessary to discharge their
292 duties; provided, however, that the chairman shall devote his or
293 her full time during normal business hours to the business of the
294 commission. The members of the commission shall be compen-
295 sated for work performed for the commission at the rate of
296 \$50,000 per annum, with the chairman receiving \$25,000 per
297 annum in additional compensation. Commission members shall
298 be reimbursed for travel and other expenses necessarily incurred
299 in the performance of official duties. Before entering upon the
300 duties of the office, each member shall swear that he does not
301 have a pecuniary interest in any business or organization holding a
302 gaming license under this chapter, or doing business with any
303 gaming service industry, as defined by this chapter and shall
304 submit to the governor and state ethics commission a statement of
305 financial interest, required by chapter 268B of the general laws,
306 listing all assets and liabilities, property and business interests,
307 and sources of income of said commissioner and his spouse. Such
308 statement shall be under oath and shall be filed at the time of
309 employment and annually thereafter. No commission member
310 shall have any interest, direct or indirect, in any applicant or in
311 any person licensed by or registered with the commission during
312 his term of office.

313 Section 3. Gaming Commission; Powers and Duties.

314 (a) The commission shall have general responsibility for the
315 implementation of this chapter, as hereinafter provided, and the
316 continued oversight of gaming in the commonwealth; including,
317 the right to hear and decide promptly and in reasonable order all
318 license, registration, certificate, and permit applications and
319 causes affecting the granting, suspension, revocation, or renewal
320 thereof; to conduct all hearings pertaining to civil violations of
321 this act or regulation promulgated hereunder; to promulgate and

322 implement, pursuant to sections 2 and 3 of chapter 30A of the
323 general laws, rules and regulations for the implementation of this
324 chapter; gaming investigations both civil and criminal; the testing
325 and inspection of gambling equipment; the licensing of corpora-
326 tions, limited partnerships, holding companies and intermediary
327 companies; to collect all license and registration fees, taxes, and
328 penalties imposed by this chapter and the regulations issued pur-
329 suant hereto; to be present with its inspectors and agents at all
330 times during the operation of any licensed gaming facility for the
331 purpose of certifying the revenue thereof; receiving complaints
332 from the public; and to review and rule upon any complaint by a
333 licensed gaming facility licensee regarding any investigative pro-
334 cedures of the bureau which are unnecessarily disruptive to
335 licensed gaming facility operations; and the execution of any
336 other powers or requirements set forth in this chapter. The need to
337 inspect and/or investigate a licensed gaming facility shall be pre-
338 sumed at all times.

339 (b) The commission shall issue an annual report of its activities
340 to the governor and the general court no later than July 31st. The
341 report shall be made available for public inspection on the world
342 wide web no later than the date of issuance and shall include, but
343 not be limited to, a detailed explanation of all revenues received
344 by the commonwealth from gaming entities, as promulgated by
345 this chapter.

346 (c) Except as otherwise provided herein, meetings of the com-
347 mission shall be subject to the provisions of section 11A and 11A
348 1/2 of chapter 30A of the General Laws. Regular and special
349 meetings of the commission may be held, at the discretion of the
350 majority of the commission or the chairman, at such times and
351 places as it may deem convenient. A majority of the membership
352 of the commission shall constitute a quorum of the commission.
353 A public record of every vote shall be maintained at the commis-
354 sion's general office. The commission may maintain any other
355 files and records, as it deems appropriate.

356 (d) The commission shall conduct hearings in accordance with
357 the provisions of chapter 30A. The commission may issue sub-
358 poenas for the attendance of witnesses or the production of any
359 records, books, memoranda, documents, or other papers, or things,
360 at or prior to any hearing as is necessary to enable the commission

361 to discharge its duties, and may administer oaths or affirmations
362 as necessary in connection therewith. The commission may peti-
363 tion the superior court for an order requiring compliance with any
364 subpoena so issued.

365 (e) The commission may retain legal, investigative, clerical and
366 other assistance as may be necessary to accomplish its duties.

367 (f) The commission may require any person to apply for a
368 license as provided in this chapter and approve or disapprove any
369 such application or other transactions, events, and processes as
370 provided in this chapter. Any application to receive any license
371 under this chapter shall constitute a request for a determination of
372 the applicant's general character, integrity, and ability to partici-
373 pate or engage in, or be associated with, gaming. Such determina-
374 tion may include a review of the applicant's associations, criminal
375 history record, business activities, and financial affairs, past or
376 present.

377 (g) The commission shall determine the manner and procedure
378 of all hearings conducted by the gaming oversight bureau, as
379 defined by this chapter, or commission or any hearing examiner of
380 the bureau or commission, including special rules of evidence
381 applicable thereto and notices thereof. The commission shall
382 establish a code of conduct for employees of the bureau.

383 (h) The commission may grant or deny any application for a
384 license or approval; may limit, condition, restrict, suspend, or
385 revoke any license or approval for any cause deemed reasonable
386 by commission, consistent with this chapter or any general or
387 special law. The commission may, in its discretion, issue a proba-
388 tionary gaming license. No gaming license may be assigned
389 either in whole or in part.

390 (i) As provided in commission regulations, the commission
391 may impose a fine or penalty or interest on such fine or penalty,
392 upon any gaming licensee, for violation of this chapter. The com-
393 mission may approve or disapprove transactions and events as
394 provided in this chapter, take actions reasonably designed to
395 ensure that no unsuitable persons are associated with controlled
396 gaming, and take actions reasonably designed to ensure that
397 gaming activities take place only on suitable premises in an appro-
398 priate manner.

399 (j) The commission shall, pursuant to sections 2 and 3 of
400 chapter 30A of the General Laws, promulgate regulations neces-
401 sary to carry out the powers and the provisions of this chapter, and
402 specifically shall promulgate regulations as to the following mat-
403 ters:

404 (1) the licensing of gaming establishments, including regula-
405 tions relating to the types of establishments, application process
406 and costs, background checks, license fees, bonding requirements,
407 and revocation and suspension of licenses;

408 (2) the licensing of gaming suppliers, including regulations
409 relating to the application process and costs, background checks,
410 license fees, bonding requirements, and revocations and suspen-
411 sion of licenses;

412 (3) the licensing of parties in interest, including regulations
413 relating to the application process and costs, background checks,
414 license fees, bonding requirements, and revocation and suspension
415 of licenses;

416 (4) the issuance of one or more classes of work permits for
417 employment of persons in licensed gambling facilities, including
418 regulations relating to the application process and costs, back-
419 ground checks, fees, and revocation and suspension of work per-
420 mits;

421 (5) the licensing of gaming schools, if any such school is estab-
422 lished in the commonwealth, including regulations relating to the
423 application process and costs, background checks, license fees,
424 and revocation and suspension of licenses;

425 (6) the licensing of all officers and directors of any entity which
426 holds or applies for a license under this chapter, including regula-
427 tions relating to the application process and costs, background
428 checks, licensee fees, and revocation and suspension of licenses;
429 and regulations requiring that, if in the judgment of the commis-
430 sion the public interest will be served by requiring any of the indi-
431 vidual stockholders, executives, agents or other employees of any
432 entity which holds or applies for a license under this chapter to be
433 licensed, such individuals apply for a license under this para-
434 graph;

435 (7) the monitoring of licensees to ensure compliance with this
436 chapter and the regulations promulgated thereunder;

- 437 (8) the presentation and/or display of all licenses and work per-
438 mits;
- 439 (9) the registration of non-gaming suppliers;
- 440 (10) the method for collecting any fines, fees, penalties and
441 interest imposed by the commission;
- 442 (11) the method and standards of operation of licensed gaming
443 establishments including, but not limited to, games, the type and
444 manner of gaming, wagering limitations, odds, and hours of oper-
445 ation; provided, however, the commission shall not restrict the
446 number of hours of operation of any licensed gaming establish-
447 ment to fewer hours than those of any competing gaming facilities
448 with controlled gaming;
- 449 (12) the manufacturing, distribution, sale, testing, servicing,
450 and inspection of gaming equipment, including requirements for
451 the identification and licensing of the same;
- 452 (13) any limitations on mortgage security interests and agree-
453 ments relating to the property of licensed gaming establishments;
- 454 (14) any limitations on transfers of interests in licenses;
- 455 (15) advertising by licensed gaming establishments; provided,
456 however, that licensees shall have the right to conduct reasonable
457 advertising consistent with that of competing gaming facilities;
- 458 (16) the manner in which winnings, compensation from games
459 and gaming devices, and gross revenues must be compiled and
460 reported by licensees; provided, further, that electronic gaming
461 devices shall return as winnings a minimum of 85 percent of all
462 sums wagered.
- 463 (17) standards for protection of the health, safety, and security
464 of the public at licensed gaming establishments;
- 465 (18) the minimum procedures to be adopted by each licensed
466 gaming establishment to exercise effective supervisory and man-
467 agement control over its fiscal affairs, including the requirement
468 of an annual audit undertaken in accordance with generally
469 accepted accounting principles, and the requirement that quarterly
470 reports be provided by licensed gaming establishments to the
471 commission no more than 30 days after the close of each quarter;
- 472 (19) the persons to be excluded or ejected from licensed
473 gaming establishments, the type of conduct prohibited, and age
474 restrictions; provided, the minimum age to enter a gaming facility
475 is not less than 21 years.

476 (20) the distribution of funds for the treatment of compulsive
477 behavior.

478 (k) In emergencies, the commission may, without complying
479 with sections 2 or 3 of chapter 30A of the general laws, sum-
480 marily adopt, amend, or repeal any regulation, if, at the time, the
481 commission makes a finding that such action is necessary for the
482 preservation of the public peace, health, safety, morals, good
483 order, or general welfare, together with a statement of the facts
484 constituting the emergency; provided, however, that all such
485 emergency actions shall expire after 90 days.

486 (l) Each operating license shall be issued for an initial term of 1
487 year, and may be renewed at the discretion of the commission for
488 a term not to exceed 5 years.

489 (m) Any failure of a licensee to comply with this chapter or any
490 regulation of the commission or the bureau may, at the discretion
491 of the commission, result in the immediate suspension or revoca-
492 tion of the license. The commission may also impose a civil fine
493 of not more than \$50,000 upon any person licensed, registered, or
494 otherwise approved under this chapter, for any violation of this
495 chapter or of any general or special law related to gaming.

496 (n) A gaming establishment license issued pursuant to this
497 chapter must be posted by the licensee and kept posted at all times
498 in a conspicuous place in the area where gaming is conducted in
499 the establishment for which the license is issued until it is
500 replaced by a succeeding license.

501 (o) Any person who has had his application for a license denied
502 or revoked, or is otherwise not in compliance with any restrictions
503 hereunder, shall not retain his interest in the premises or any entity
504 seeking or holding a license under this chapter beyond that period
505 prescribed by the commission; and shall not accept more for his
506 interest than he paid for it or the market value on the date of the
507 denial or revocation of the license or occurrence of non-compli-
508 ance (not including the prospective value of said license), what-
509 ever is higher.

510 (p) The voluntary surrender of a license by a licensee does not
511 become effective until accepted in a manner to be provided in the
512 regulations of the commission. The surrender of a license does
513 not relieve the former licensee of any fees, penalties, fines, taxes
514 or interest due.

515 (q) No person shall pledge or transfer a direct or indirect pecu-
516 niary interest in a licensed operating entity or premises, or enter
517 into an option contract or other agreement providing for such
518 transfer in the future, without having notified the commission. No
519 person shall transfer a greater than five percent (5%) direct or
520 indirect pecuniary interest in a licensed operating entity or
521 premises without the issuance by the commission to the transferee
522 of an operating license or an affirmative statement that the trans-
523 feree has met the operating license standards, as the commission
524 may require.

525 (r) The commission shall monitor the conduct of all licensees
526 and other persons having a material involvement, directly or indi-
527 rectly, with a licensee for the purpose of ensuring that licenses are
528 not issued to, or held by, unqualified, disqualified, or unsuitable
529 persons and there is no direct or indirect material involvement
530 with such a person by a licensee.

531 (s) No commission member or person employed by the com-
532 mission shall solicit or accept employment from a licensee, or rep-
533 resent any person or party other than the commonwealth before or
534 against the commission for a period of 5 years from the termina-
535 tion of his office or employment with the commission.

536 (t) The commission may investigate fraud, deceit, misrepresen-
537 tation or violations by any licensee under this chapter, or the
538 occurrence of any such activity within or involving any licensee.
539 If the commission has reasonable basis to believe that any licensee
540 has been or is engaged in criminal behavior or that criminal
541 activity is occurring within or involving any licensed gaming
542 establishment, the commission shall report the same to the district
543 attorney of the county within which the gaming establishment is
544 located and make available to the district attorney all relevant
545 information on such activity. The commission shall apply to the
546 department of public safety for the assignment of a complement of
547 police officers to the commission on a regular basis and the
548 department shall assign a complement to the commission. The
549 commission shall assign such police officers to guard and protect
550 the lives and safety of the public and property at any such gaming
551 establishment, and to perform any other duties which may be
552 required by the commission in order to maintain a fair and honest
553 gaming establishment. The police officers so assigned shall,

554 except in the case of an emergency, while on duty at any such
555 establishment be subject to the operational authority of the com-
556 mission; provided, however, that such assignment or reassignment
557 shall not in any way impair any rights to which any officer may be
558 entitled. The commission shall, from the gaming oversight fund,
559 pay to the department of public safety the cost of the salaries of
560 the police officers so assigned from funds appropriated to the
561 commission. All assignment and reassignments to the commis-
562 sion, except when the commissioner of public safety shall deter-
563 mine an emergency exists, shall be subject to the approval of the
564 commission. Nothing herein shall prevent licensees from hiring
565 the state police, if they have jurisdiction in the area where gaming
566 establishment is located, or the police department of a city or
567 town wherein the gaming establishment is located, in order to fur-
568 nish a police detail for safety or traffic purposes at any gaming
569 establishment authorized by this chapter. The total cost for any
570 such police detail shall be a sum equal to the wages payable to the
571 police officers comprising such detail for their work, plus a sum to
572 cover the administrative expenses incurred by the department of
573 each police officer.

574 (u) The commission shall carry out any obligations or responsi-
575 bilities required in any established gaming compact entered into
576 between the commonwealth of Massachusetts and a federally rec-
577 ognized Native American tribe.

578 (v) The commission, as it deems appropriate, may ask a district
579 attorney to file a civil lawsuit to restrain a violation of this chapter
580 or enforce any provision thereof. An action brought against a
581 person pursuant to this chapter does not preclude any other crim-
582 inal or civil proceeding as authorized by law.

583 (w) No official, member, employee, or agent of the commis-
584 sion, having obtained access to confidential records or informa-
585 tion in the performance of the duties pursuant to this chapter,
586 unless otherwise provided by law, shall knowingly disclose or fur-
587 nish the records or information, or any part thereof, to any person
588 who is not authorized by law to receive or learn of such informa-
589 tion. A violation of this provision shall be punishable by a fine of
590 not more than \$10,000 or by imprisonment in the house of correc-
591 tions for not more than 1 year, or by both.

592 Section 4. Gaming oversight bureau; composition, powers and
593 duties.

594 (a) There shall be established a gaming oversight bureau within
595 the executive office of administration and finance.

596 (b) The secretary of administration and finance shall appoint
597 the executive director of the bureau for a term of 5 years. The
598 executive director shall not serve more than 2 consecutive terms.
599 The executive director shall employ such professional, technical,
600 and clerical assistants and employees as necessary, subject to
701 appropriation. The department of public safety and division of
702 state police shall assign to the bureau such full and adequate num-
703 bers of investigators as the executive director shall reasonably
704 require to carry out the purposes of this chapter.

705 (c) The powers and duties of the bureau shall include, but not
706 be limited to, the following:

707 (1) To visit, investigate, and place accountants, technicians, and
708 any other personnel, without prior notice or approval of any party
709 as it may deem necessary, in the office, gaming area, or other
710 place of business of any licensee under this chapter;

711 (2) To require that the books and financial or other records or
712 statements of any licensee be kept in a manner that the commis-
713 sion or the bureau deems proper;

714 (3) To visit, inspect, and examine without prior notice or
715 approval of any party, all premises where gaming equipment is
716 manufactured, sold or distributed;

717 (4) To inspect and test without prior notice or approval of any
718 party, all equipment and supplies in any licensed gaming estab-
719 lishment or in any premises where gaming equipment is manufac-
720 tured, sold or distributed;

721 (5) To summarily seize, remove, and impound any shipment,
722 supplies, documents, or records from any licensed gaming estab-
723 lishment for the purpose of examination and inspection;

724 (6) To have access to, and inspect, examine, photocopy, and
725 audit all relevant and material papers, books, and records of an
726 applicant for, or person holding, a license for a gaming establish-
727 ment under this chapter, on such applicant's or licensee's premises
728 or elsewhere, as practicable, in the presence of the applicant or
729 licensee or his or her agent, and require verification of income,
730 and all other matters affecting the enforcement of this chapter;

731 (7) To have access to and inspect, examine, photocopy, and
732 audit all relevant and material papers, books, and records of any
733 affiliate of a licensed gaming establishment that the bureau knows
734 or reasonably suspects is involved in the financing, operation, or
735 management of any entity licensed pursuant to this chapter, either
736 on the affiliate's premises or elsewhere, as practicable, in the pres-
737 ence of the affiliate or any agent thereof; and,

738 (8) To refer any suspected criminal violation of this chapter to
739 any appropriate law enforcement agency; provided, however, that
740 nothing in this section shall be deemed to limit the investigatory
741 and prosecutorial powers of other state and local officials and
742 agencies;

743 (9) To enforce any other laws, as applicable, in order to effec-
744 tuate this chapter.

745 (d) The bureau shall investigate the qualifications of each appli-
746 cant under this chapter and make a recommendation to the com-
747 mission before any license is issued. The bureau shall also
748 continue to monitor the conduct of all licensees and other persons
749 having a material involvement, directly or indirectly, with a
750 licensee for the purpose of ensuring that licenses are not issued to,
751 or held by, and there is no direct or indirect material involvement
752 with a licensee by unqualified, disqualified, or unsuitable persons,
753 or persons whose operations are conducted in unsuitable manner
754 or in unsuitable or prohibited places, as provided in the regula-
755 tions of the commission or the bureau.

756 (e) The bureau may recommend to the commission the denial of
757 any application, the limitation, conditioning, restriction, suspen-
758 sion, or revocation of any license or approval, or the imposition of
759 any fine or penalty upon any licensee.

760 (f) The bureau shall maintain a file of applications for licenses
761 under this chapter, together with a record of all action taken by the
762 commission on those applications. Such applications shall be
763 open to public inspection. The bureau may maintain any other
764 files and records as it deems appropriate.

765 (g) Each employee of the bureau shall file with the executive
766 director and the state ethics commission a statement of financial
767 interest as defined in chapter 268B. Such statement shall be under
768 oath and shall be filed at the time of employment and annually
769 thereafter, as required by the state ethics commission.

770 (h) No employee of the bureau shall be permitted to place a
771 wager in any establishment licensed by the commission except in
772 the course of his duties.

773 (i) No person employed by the bureau shall solicit or accept
774 employment from a licensee, or represent any person or party
775 other than the commonwealth before or against the bureau or the
776 commission, for a period of 5 years from the termination of his
777 office or employment with the bureau.

778 (j) The bureau may investigate fraud, deceit, misrepresentation
779 or violations of this chapter by any person licensed hereunder or
780 the occurrence of any such activity within or involving any
781 licensed gaming establishment. If the bureau has reasonable basis
782 to believe that any licensee has been or is engaged in criminal
783 behavior or that criminal activity is occurring within or involving
784 any licensed gaming establishment, the bureau shall report the
785 same to the district attorney of the county within which the
786 licensed gaming establishment is located and make available to
787 the district attorney all relevant information on such activity.

788 (k) The bureau, as it deems appropriate, may ask said district
789 attorney to file a civil lawsuit to restrain a violation of this chapter
790 or enforce any provision thereof. An action brought against a
791 person pursuant to this chapter shall not preclude any other crim-
792 inal or civil proceeding as may be authorized by law.

793 (l) The bureau shall make a continuous study and investigation
794 of gaming throughout the commonwealth in order to ascertain the
795 adequacy and effectiveness of state gaming law or regulations and
796 may formulate recommendations for changes in such laws and
797 regulations. The bureau shall make a continuous study and inves-
798 tigation of the operation and administration of similar laws in
799 other states or countries, of any literature or reports on the subject,
800 of any federal laws which may affect the operation of gaming in
801 the commonwealth, all with intent to recommend or effect
802 changes that will better serve and implement the purposes of this
803 chapter.

804 (m) The bureau shall submit an annual report to the governor
805 and the general court no later than July 31st. The report shall
806 detail, for the preceding 12 month period, the gross revenue, net
807 revenue, and average depreciation of each licensee; the number of
808 persons employed by each licensee; and the assessed valuation of

809 each Massachusetts gaming facility as listed on the assessment
810 rolls. The findings of this report shall be published in conjunction
811 with the annual report of the gaming commission pursuant to
812 section 3 of this chapter. The report shall be made available for
813 public inspection on the world wide web.

814 (n) The bureau shall carry out any obligations or responsibili-
815 ties required in an established gaming compact entered into
816 between the commonwealth of Massachusetts and a federally rec-
817 ognized Native American tribe.

818 (o) No official, member, employee, or agent of the bureau,
819 having obtained access to confidential records or information in
820 the performance of the duties pursuant to this chapter, unless oth-
821 erwise provided by law, shall knowingly disclose or furnish the
822 records or information, or any part thereof, to any person who is
823 not authorized by law to receive or learn of such information. A
824 violation of this provision shall be punishable by a fine of not
825 more than \$10,000 or by imprisonment in the house of corrections
826 for not more than 1 year, or by both.

827 (p) The executive director of the bureau may recommend that
828 the commission initiate proceedings or actions appropriate to
829 enforce this chapter and the regulations promulgated thereunder.

830 Section 5. Records of proceedings.

831 (a) The commission shall cause to be made and kept a record of
832 all proceedings at regular and special meetings of the commission.
833 These records shall be open to public inspection, except those por-
834 tions declared by law to be confidential.

835 (b) Notwithstanding any other general or special law to the con-
836 trary all files, records, reports, and other information in possession
837 of any state or local government agency, including tax filings and
838 related information, that are relevant to an investigation by the
839 bureau conducted pursuant to this act shall be made available to
840 the bureau as requested. However, any tax or financial informa-
841 tion received from a government agency shall be used solely for
842 effectuating the purposes of this act. To the extent that these files,
843 records, reports, or information are confidential or otherwise priv-
844 ileged from disclosure under any law they shall not lose that con-
845 fidential or privileged status for having been disclosed to the
846 bureau.

847 (1) The commission and the bureau shall not release or disclose
848 any privileged information, documents or communications pro-
849 vided by an applicant or licensee without the prior written consent
850 of the applicant or licensee or pursuant to a lawful court order
851 after timely notice of the proceedings has been given to the appli-
852 cant or licensee.

853 (2) The commission and the bureau shall maintain all privileged
854 information, documents and communications in a secure place
855 accessible only to members of the commission and the executive
856 director, and employees of the commission.

857 (3) The commission and the bureau shall adopt procedures and
858 regulations to protect the privileged nature of information, docu-
859 ments and communications provided by an applicant or licensee.

860 Section 6. Issuance of gaming licenses.

861 (a) Notwithstanding the provisions of chapters 137 and 271 of
862 the General Laws, or any general or special law to the contrary,
863 each racing meeting licensee existing on April 1, 2005, which
864 runs a full schedule of live races as defined in section 2 of chapter
865 128C, is eligible to receive a temporary gaming license, subject to
866 the application and licensing requirements and all other applicable
867 provisions of this chapter, to operate no more than 1500 electronic
868 gaming devices; provided, that such electronic gaming devices
869 shall only function on the existing facility operated by the racing
870 meeting licensee prior to April 1, 2005. The racing meeting
871 licensee shall not operate any additional games other than those
872 allowable by law for holders of a racing meeting license, pursuant
873 to chapters 128A and 128C of the General Laws. Nothing in this
874 section shall be construed to permit a racing meeting licensee to
875 operate games other than electronic gaming devices. Each racing
876 meeting licensee must adhere to and comply with the following
877 provisions:

878 (1) Upon passage of this chapter, each racing meeting licensee
879 must submit a letter of intent with the secretary of administration
880 and finance to declare the number of electronic gaming devices
881 the licensee chooses to operate, not to exceed 1500, and the date
882 of commencement at which time the operation of said number of
883 electronic gaming devices shall begin; provided, the date of com-
884 mencement must be within 180 days of the submission of the
885 letter of intent, otherwise the licensee shall forfeit all privileges

886 granted by this chapter and, therefore, an additional license to
887 operate electronic gaming devices may be auctioned by the com-
888 monwealth in accordance with subsection (b) of this section. Fur-
889 thermore, the letter of intent must be submitted to the secretary
890 within 90 days of the passage of this chapter; however, if a racing
891 meeting licensee fails to submit a letter of intent within 90 days,
892 the licensee shall forfeit all privileges granted by this chapter and,
893 therefore, an additional license to operate electronic gaming
894 devices may be auctioned by the commonwealth in accordance
895 with subsection (b) of this section.

896 (2) Two years after the date of commencement, each racing
897 meeting licensee shall pay to the commonwealth of Massachusetts
898 an amount of seventeen and one-half of one percent (17.5%) of
899 the maximum annual gaming revenue derived from all electronic
900 gaming devices; provided, the maximum annual gaming revenue
901 shall be calculated by multiplying the daily gaming revenue of the
902 most profitable electronic gaming device by 365 (the number of
903 days in a year), multiplied by the number of electronic gaming
904 devices enumerated in the original letter of intent submitted to the
905 secretary of administration and finance; provided, for the purposes
906 of this calculation, the daily gaming revenue of the most prof-
907 itable electronic gaming device shall not be less than \$300.
908 Should the racing meeting licensee fail to make such payment as
909 and when due, any amounts then owing shall constitute a lien run-
910 ning in favor of the commonwealth and relating back to the date
911 of commencement.

912 (3) Upon receipt of the payment pursuant to subsection (a) (2),
913 the commission shall grant the racing meeting licensee a perma-
914 nent gaming license to be approved and used in accordance with
915 the provisions of this chapter; provided, that the gaming license is
916 only valid for the operation of the total number of electronic
917 gaming devices enumerated in the original letter of intent sub-
918 mitted to the secretary of administration and finance, pursuant to
919 subsection (a) (1). This gaming license shall never be pledged,
920 sold or transferred in any way, whatsoever.

921 (4) If, at anytime, a racing meeting licensee would like to
922 operate more electronic gaming devices, not to exceed a total of
923 1500 but more than the amount enumerated in the original letter
924 of intent submitted to the secretary of administration and finance,

925 pursuant to subsection (a) (1), then the licensee must file a peti-
926 tion with the commission and indicate the additional number of
927 electronic gaming devices it desires to operate. The commission
928 shall only allow the licensee to increase the number of operable
929 electronic gaming devices if a payment is submitted to the com-
930 monwealth of Massachusetts for the additional number of elec-
931 tronic gaming devices in accordance with subsection (a) (2);
932 provided, said payment must be made before the operation of any
933 additional electronic gaming devices.

934 (b) Notwithstanding the provisions of chapters 137 and 271 of
935 the General Laws, or any general or special law to the contrary,
936 the commission shall issue 2 licenses, each for the operation of
937 not more than 1500 electronic gaming devices, from among all
938 persons or entities seeking to be a licensed operator in the com-
939 monwealth of Massachusetts; provided, 1 license shall only be
940 issued in either Berkshire county, Franklin county, Hampden
941 county or Hampshire county, and 1 license shall only be issued in
942 Worcester county. In the event a racing meeting licensee chooses
943 not to obtain, or is not granted a license, then the commission
944 shall issue an additional license for the operation of electronic
945 gaming devices in any county other than those aforementioned.
946 The commission shall submit to each applicant a request for pro-
947 posal, which shall be designed to maximize the initial revenue
948 potential for the state. Those applicants offering the highest bid in
949 order to maximize the initial revenue potential for the state shall
950 be selected; provided, they comply with the licensing provisions
951 of this chapter; and provided further, that the commission deter-
952 mines there is a suitable location for a facility under this section;
953 provided however, that any federally recognized Native American
954 tribe authorized pursuant to the Indian Gaming Regulatory Act, 29
955 U.S.C. sections 2701 to 2721, shall have the right of first refusal
956 to negotiate with the commission to be licensed under this para-
957 graph; provided that said tribe agrees as part of the agreement to
958 be a commercial operator and commercial business subject to the
959 laws and regulations of the commonwealth and its political subdi-
960 visions, pay a fee as negotiated between the commission and the
961 Native American tribe, meet the requirements of the commission
962 and of this chapter to be a licensee, forfeit any rights it may have
963 under the Indian Gaming Regulatory Act, pursuant to 29 U.S.C.

964 2710 to 2719, and be subject to the rights and obligations as citi-
965 zens of the commonwealth; provided further, that the commission
966 shall require the tribe to submit a completed application within
967 sixty (60) days. Should the Native American tribe fail to meet the
968 requirements for a license, fail to ratify an agreement with the
969 commission, choose not to negotiate with the commission, or not
970 submit an application with sixty (60) days under this paragraph,
971 then all agreements negotiated with the commission shall be void;
972 provided however, failure to negotiate an agreement with the com-
973 mission shall not preclude the Native American tribe from submit-
974 ting an application for a license, but as part of the Native
975 American tribe's application it must agree to forfeit any rights it
976 may have under the Indian Gaming Regulatory Act, pursuant to
977 29 U.S.C. 2710 to 2719, and be subject to the rights and obliga-
978 tions as citizens of the commonwealth. No single gaming entity,
979 including its shareholders, shall have more than one gaming
980 license.

981 (c) No gaming license may be issued for operation in a commu-
982 nity or communities without the approval of the voters of said
983 community or communities by way of referendum held after April
984 1, 2005. Furthermore, no gaming license may be issued for opera-
985 tion in a community or communities without the approval of a
986 majority of the aggregate number of voters in all contiguous com-
987 munities to the proposed site of operation. Therefore, all affected
988 communities must host an election within 120 days of the submis-
989 sion of an eligible application to the commission; provided the
990 secretary of commonwealth shall certify the cost of the election
991 incurred by each community and the applicant shall reimburse the
992 cost to each community within 60 days of the receipt of certifica-
993 tion by the secretary of the commonwealth. This section shall not
994 apply to racing meeting licensees existing on April 1, 2005.

995 Section 7. License approval.

996 (a) The commission and the bureau shall investigate the qualifi-
997 cations of each applicant under this act before any license is
998 issued or any registration, finding of suitability or approval of acts
999 or transactions for which commission approval is required or per-
1000 mission is granted, and shall continue to monitor the conduct of
1001 all licensees and registrants and other persons having a material
1002 involvement, directly or indirectly with a licensed gaming facility

1003 or holding company to ensure that licenses are not issued or held
1004 by, nor is there any material involvement directly or indirectly
1005 with a licensed gaming facility or holding company by unquali-
1006 fied, disqualified or unsuitable persons, or persons whose opera-
1007 tions are conducted in an unsuitable manner or in unsuitable or
1008 prohibited places or locations, as provided in commission regula-
1009 tions. All expenses associated with the licensing of any applicant
1010 shall be borne by the applicant. Pursuant to its regulations, the
1011 commission shall require each applicant for a gambling license to
1012 deposit with the commission, together with the application there-
1013 fore, an application fee. Such fee shall constitute the anticipated
1014 costs and charges incurred in the investigation and processing of
1015 the application, and any additional sums as are required by the
1016 commission to pay final costs and charges.

1017 (b) The commission and the bureau may require a finding of
1018 suitability for the licensing of any person who owns any interest
1019 in the premises of a licensed establishment; owns any interest in
1020 real property used by a licensed establishment whether he leases
1021 the property directly to the licensee or through an intermediary;
1022 repairs, rebuilds or modifies any gaming device; manufactures or
1023 distributes chips or gaming tokens for use in this state.

1024 (c) The commission and the bureau may require a finding of
1025 suitability or the licensing of any person who furnishes services or
1026 property to a state gaming licensee under any arrangement pur-
1027 suant to which the person receives payments based on earnings,
1028 profits or receipts from gaming.

1029 (d) No person shall operate a gaming establishment without
1030 first having obtained all necessary operating licenses from the
1031 commission. There shall be a single licensed operator for each
1032 gaming establishment. The licensing standards must be met at all
1033 times by each officer, director, partner, and trustee of the oper-
1034 ating entity, by each substantial party in interest of the operating
1035 entity or of the premises on which such establishment is located,
1036 and by such other party in interest of the operating entity, the
1037 premises, or any holding company or intermediary company of the
1038 operating entity or the premises as the commission may require.
1039 In no event shall the commission permit a person or entity previ-
1040 ously convicted of a felony to be a party in interest of the oper-
1041 ating entity or of the premises or of any holding or intermediary

1042 company of the operating entity or the premises. A separate
1043 license shall be required for any person described above, unless
1044 the commission specifically determines otherwise.

1045 (e) Each gaming operator license approved by the commission
1046 pursuant to subsections (a), (b) and (c) of this section shall be
1047 issued for an initial term of 1 year, and may be renewed at the dis-
1048 cretion of the commission for a term not to exceed 5 years, unless
1049 the commission demonstrates that the operator is no longer quali-
1050 fied to hold a gaming license pursuant to the criteria set forth
1051 herein.

1052 (f) Each license approved by the commission shall be awarded
1053 as the result of an application process to be designed and estab-
1054 lished by said commission. A person may apply to be a licensed
1055 gaming operator by filing an application with the commission, in
1056 the form and with such accompanying application fees as the com-
1057 mission may establish. Information on the application will be
1058 used as the basis for a thorough background investigation which
1059 the bureau shall conduct with respect to each applicant. Each
1060 application shall disclose the identity of each party in interest,
1061 each holding company and intermediary company, and each affil-
1062 iate of the operating entity. The application shall disclose, in the
1063 case of a privately held corporation, the names and addresses of
1064 all directors, officers, and stockholders; in the case of a publicly
1065 traded corporation, the names and addresses of all directors, offi-
1066 cers, and persons holding at least 1 percent of the total capital
1067 stock issued and outstanding; in the case of a partnership, the
1068 names and addresses of all partners, both general and limited; and
1069 in the case of a trust, the names and addresses of all trustees and
1070 beneficiaries. Persons applying for gaming operator licenses shall
1071 be required to define the number of full-time equivalent
1072 employees that the project will produce, and the project's non-
1073 gaming economic development potential.

1074 (g) Each operating entity shall identify, in its application, the
1075 premises where it proposes to conduct its gaming operations and
1076 demonstrate that the operating entity owns or has legal control of
1077 the premises where it proposes to conduct its gaming operations.
1078 The application shall contain such information regarding the phys-
1079 ical location and condition of the premises and the potential
1080 impact of the proposed gaming operations upon adjacent proper-

1081 ties and the municipality and region within which the premises are
1082 located, as the commission may require. The application shall
1083 disclose the identity of all parties in interest regarding the
1084 premises; and provided, further, except as otherwise permitted
1085 herein, no person other than a licensee hereunder shall have any
1086 right to or interest in net gaming revenue or adjusted net gaming
1087 revenue in the form of a percentage of any sums payable here-
1088 under. An operating entity may also identify temporary premises
1089 in its application where an applicant may be permitted to operate a
1090 temporary facility for a period of no longer than 24 months during
1091 construction of its permanent gaming facility.

1092 Section 8. License requirements.

1093 (a) The commission shall require that each licensed operator
1094 utilize resources, goods and services of the commonwealth of
1095 Massachusetts to the reasonable extent practical in the operation
1096 of the licensed gaming facility.

1097 (b) The commission shall require that each licensed operator
1098 make reasonable effort to ensure that a substantial number of their
1099 employees are residents of the commonwealth.

1100 (c) No licensed operator shall obtain any gaming equipment
1101 from a person who does not hold a license. No licensed operator
1102 shall enter into any agreement for the receipt of goods or services,
1103 of any form and in any amount, from a person who does not hold
1104 a license, when a license is required for such agreement under this
1105 act or under regulations promulgated by the commission or
1106 bureau.

1107 (d) No licensed operator shall employ any person in a gaming
1108 establishment who does not hold a work permit, when a work
1109 permit is required for such position under regulations promulgated
1110 by the commission or bureau.

1111 (e) Any person who the commission determines is qualified to
1112 receive a license or be found suitable under the provisions of this
1113 act, may be issued a state gaming license or found suitable, as
1114 appropriate. The burden of proving his qualification to receive
1115 any license or be found suitable is on the applicant. A license to
1116 operate a gaming establishment shall not be granted unless the
1117 applicant has satisfied the commission that he or she has adequate
1118 business probity, competence and experience, in gaming; and the
1119 proposed financing of the entire operation is adequate for the

1120 nature of the proposed operation; and, from a suitable source. An
1121 application to receive a license or be found suitable constitutes a
1122 request for a determination of the applicant's general character,
1123 integrity, and ability to participate or engage in, or be associated
1124 with gaming, as appropriate. The commission may limit the
1125 license or place such conditions thereon, as it may deem necessary
1126 in the public interest. The commission may, if it considers neces-
1127 sary, issue a probationary license. No state gaming license may
1128 be assigned either in whole or in part. The commission may limit
1129 or place such conditions, as it may deem necessary in the public
1130 interest upon any registration, finding of suitability or approval
1131 for which application has been made. A licensee may be granted
1132 a temporary gaming license to operate a gaming facility during the
1133 construction phase of any licensed gaming facility, provided, that
1134 no more than 2 temporary licenses shall be awarded for any
1135 licensed gaming facility, and provided further that no temporary
1136 license shall remain in force for a period in excess of 24 months.

1137 (f) Any state license in force may be renewed by the commis-
1138 sion for the next succeeding license period upon proper applica-
1139 tion for renewal and payment of state license fees and taxes as
1140 required by law and the regulations of the commission. If any
1141 licensee or other person fails to renew his license the commission
1142 may order the immediate closure of all his gaming activity until
1143 the license is renewed by the payment of the necessary fees, taxes,
1144 interest and any penalties.

1145 (g) If satisfied that an applicant is eligible to receive a state
1146 gaming, manufacturing, selling, or distributing license, and upon
1147 tender of all license fees and taxes as required by law and regula-
1148 tion of the commission; and a bond executed by the applicant as
1149 principal, and by a corporation qualified under the laws of the
1150 commonwealth as surety, payable to the commonwealth, and con-
1151 ditioned upon the payment of license fees and taxes and the
1152 faithful performance of all requirements imposed by law or regu-
1153 lation or the conditions of the license, the commission shall issue
1154 and deliver to the applicant a license entitling him to engage in the
1155 gaming, manufacturing, selling or distributing operation for which
1156 he is licensed, together with an enumeration of the specific terms
1157 and conditions of the license.

1158 (h) A license issued pursuant to the provisions of this act must
1159 be posted by the licensee and kept posted at all times in a conspic-
1160 uous place in the area where gaming is conducted in the establish-
1161 ment for which the license is issued until it is replaced by a
1162 succeeding license.

1163 (i) If the commission is not satisfied that an applicant is quali-
1164 fied to be licensed under this act, the commission may cause to be
1165 made such investigation into and conduct such hearings con-
1166 cerning the qualifications of the applicant in accordance with its
1167 regulations as it may deem necessary.

1168 (j) The commission has full and absolute power and authority
1169 to deny any application for any cause it deems reasonable. If an
1170 application is denied, the commission shall prepare and file its
1171 written decision upon which its order denying the application is
1172 based.

1173 (k) A person who has had his application for a license denied or
1174 who has been found unsuitable by the commission shall not retain
1175 his interest in a corporation, partnership, limited partnership, lim-
1176 ited-liability company or joint venture beyond that period pre-
1177 scribed by the commission; and shall not accept more for his
1178 interest in a corporation, partnership, limited partnership, limited
1179 limited-liability company or joint venture than he paid for it or the
1180 market value on the date of the denial of the license or the finding
1181 of unsuitability.

1182 (l) The voluntary surrender of a license by a licensee does not
1183 become effective until accepted in the manner provided in the reg-
1184 ulations of the commission. The surrender of a license does not
1185 relieve the former licensee of any penalties, fines, fees, taxes or
1186 interest due.

1187 (m) The bureau shall promptly and in reasonable order investi-
1188 gate all applications, enforce the provisions of this act and any
1189 regulations promulgated hereunder. The bureau shall provide the
1190 commission with all information necessary for all actions
1191 requested of it under this act and for all proceedings involving
1192 enforcement of the provisions of this act or any regulations pro-
1193 mulgated hereunder.

1194 (n) The bureau shall investigate the qualifications of each appli-
1195 cant before any license, certificate, or permit is issued pursuant to
1196 the provisions of this act; investigate the circumstances sur-

1197 rounding any act or transaction for which commission approval is
1198 required; investigate violations of this act and regulations promul-
1199 gated hereunder; initiate, prosecute and defend such proceedings
1200 before the commission, or appeals therefrom, as the bureau may
1201 deem appropriate; provide assistance upon request by the commis-
1202 sion in the consideration and promulgation of rules and regula-
1203 tions; conduct continuing reviews of licensed gaming facility
1204 operations through on-site observation and other reasonable
1205 means to assure compliance with this act and regulations promul-
1206 gated hereunder; conduct audits of licensed gaming facility opera-
1207 tions at such times, under such circumstances, and to such extent
1208 as the director shall determine, including reviews of accounting,
1209 administrative and financial records, and management control sys-
1210 tems, procedures and records utilized by a license gaming facility
1211 licensee; and be entitled to request information, materials and any
1212 other data from any licensee or registrant, or applicant for a
1213 license or registration under this act.

1214 (o) Each licensee or registrant, or applicant for a license or reg-
1215 istration under this act shall cooperate with the commission and
1216 the bureau in the performance of their duties.

1217 (p) The bureau and its employees and agents, upon approval of
1218 the director, shall have the authority, without notice and without
1219 warrant to inspect and examine all premises wherein gaming is
1220 conducted; or gaming devices or equipment are manufactured,
1221 sold, distributed, or serviced, or wherein any records of such
1222 activities are prepared or maintained; to inspect all equipment and
1223 supplies in, about, upon or around such premises; to seize sum-
1224 marily and remove from such premises and impound any such
1225 equipment or supplies for the purpose of examination and inspec-
1226 tion; to inspect, examine and audit all books, records, and docu-
1227 ments pertaining to a gaming licensee's operation; to seize,
1228 impound or assume physical control of any book, record, ledger,
1229 game, device, cash box and its contents, counting room or its
1230 equipment, or licensed gaming facility operations; and to inspect
1231 the person, and personal effects present in a license gaming
1232 facility licensed under this act, of any holder of a license or regis-
1233 tration issued pursuant to this act while that person is present in a
1234 licensed gaming facility.

1235 (q) Every licensed gaming facility must, upon receipt of crim-
1236 inal or civil process compelling testimony or production of docu-
1237 ments in connection with any criminal investigation, immediately
1238 disclose such information to the bureau.

1239 Section 9. Licensing of gaming service industries.

1240 (a) All gaming service industries as defined in this act offering
1241 goods or services which directly relate to gaming activities or
1242 indirectly relate to gaming operations shall be licensed in accor-
1243 dance with rules of the commission and prior to conducting any
1244 business whatsoever with a gaming applicant or licensee, its
1245 employees or agents, and in the case of a school, prior to enroll-
1246 ment of any students or offering of any courses to the public
1247 whether for compensation or not. Gaming service industries that
1248 directly relate to gaming activities shall include gaming and
1249 wagering equipment manufacturers, suppliers and repairers,
1250 schools teaching gaming and either playing or dealing techniques,
1251 and gaming security services. Gaming service industries that indi-
1252 rectly relate to gaming operations shall include junket enterprises;
1253 suppliers of alcoholic beverages, food and non-alcoholic bever-
1254 ages; garbage handlers; vending machine providers; linen sup-
1255 pliers; maintenance companies; shopkeepers located within the
1256 approved hotels; limousine services and construction companies
1257 contracting with gaming applicants or licensees or their
1258 employees or agents.

1259 (b) Each gaming service industry, as well as its owners, man-
1260 agement and supervisory personnel and other principal employees
1261 must qualify under standards promulgated by the commission.

1262 (c) The commission may exempt any person or field of com-
1263 merce from the licensing requirements of this subsection if the
1264 person or field of commerce demonstrates that it is regulated by a
1265 public agency or that it will provide goods or services in insub-
1266stantial or insignificant amounts or quantities, or provides profes-
1267sional services such as accountants, auditors, attorneys, or broker
1268dealers, and that licensing is not deemed necessary in order to
1269protect the public interest or to accomplish the policies established
1270by this act. Upon granting an exemption or at any time thereafter,
1271the commission may limit or place such restrictions thereupon as
1272it may deem necessary in the public interest, and shall require the
1273exempted person to cooperate with the commission and the bureau

1274 and, upon request, to provide information in the same manner as
1275 required of a gaming service industry licensed pursuant to this
1276 section.

1277 (d) Licensure pursuant to this section of any gaming service
1278 industry may be denied to any applicant disqualified in accor-
1279 dance with the criteria contained in sections 7 and 8, where
1280 applicable, of this act.

1281 (e) There is hereby imposed and levied on each applicant for a
1282 gaming service industry license under this section an annual
1283 license fee in the amount of \$500.

1284 Section 10. Right to hearing.

1285 Any person aggrieved by a determination by the commission to
1286 issue, deny, modify, revoke or suspend any license or approval, or
1287 to issue an order, under the provisions of this act, may request an
1288 adjudicatory hearing before the commission under the provisions
1289 of chapter 30A of the General Laws. Any such determination
1290 shall contain a notice of this right to request a hearing and may
1291 specify a time limit, not to exceed 21 days, within which said
1292 person shall request said hearing. If no such request is timely
1293 made, the determination shall be deemed assented to. If a timely
1294 request is received, the commission shall within a reasonable time
1295 act upon a request in accordance with the provisions of said
1296 chapter 30A. A person aggrieved by a final decision in an adjudi-
1297 catory hearing held under the provisions of this section may
1298 obtain judicial review thereof pursuant to the provisions of
1299 chapter 30A.

1300 Section 11. Criminal acts and penalties.

1301 (a) Except as otherwise provided in this act or in chapter 10 or
1302 in section 7A of chapter 271 of the General Laws, it is unlawful
1303 for any person to deal, operate, carry on, conduct, maintain or
1304 expose for play in the commonwealth of Massachusetts any gam-
1305 bling game, gaming device, or slot machine as defined by this act;
1306 to receive, directly or indirectly, any compensation or reward or
1307 any percentage or share of the money or property played, for
1308 keeping, running or carrying on any gambling game, gaming
1309 device, or slot machine; to permit any gambling game, gaming
1310 device, or slot machine to be conducted, operated, dealt or carried
1311 on in any house or building or other premises owned by him, in
1312 whole or in part; to lend, let, lease or otherwise deliver or furnish

1313 any equipment of any gambling game, including any slot machine,
1314 for any interest, percentage or share of the money or property
1315 played, under guise of any agreement whatever; to lend, let, lease
1316 or otherwise deliver or furnish, except by a bona fide sale or cap-
1317 ital lease, any slot machine under guise of any agreement whereby
1318 any consideration is paid or is payable for the right to possess or
1319 use that slot machine, whether the consideration is measured by a
1320 percentage of the revenue derived from the machine or by a fixed
1321 fee or otherwise; to furnish services or property, real or personal,
1322 on the basis of a contract, lease or license, pursuant to which that
1323 person receives payments based on earnings or profits from any
1324 gambling game, including any slot machine, without having first
1325 procured a state gaming license from the commission.

1326 (b) Any person included on the list of persons to be excluded or
1327 ejected from a gambling establishment pursuant to regulations
1328 promulgated pursuant to this act who knowingly enters or remains
1329 on the premises of a licensed gambling establishment shall be
1330 punished by a fine to be determined by the commission, in addi-
1331 tion to any other penalties prescribed by law.

1332 (c) Any person under the age of 21 years, or any age greater as
1333 set by the commission, who plays, places wagers at, or collects
1334 winnings from, whether personally or through an agent, any con-
1335 trolled game, or who is employed as an employee in a licensed
1336 gaming establishment shall be punished by imprisonment in the
1337 house of correction for not more than 1 year, or by a fine of not
1338 more than \$1,000, or by both such imprisonment and fine. A sub-
1339 sequent violation of this section shall subject a person to impris-
1340 onment in the house of correction for not more than 2 years, or by
1341 a fine of not more than \$5,000, or by both such imprisonment and
1342 fine. Any licensee, or other person, who knowingly allows a
1343 person under the age set by the commission to play, place wagers
1344 at or collect winnings, whether personally or through an agent,
1345 shall be punished by imprisonment in the house of correction for a
1346 term of not more than 1 year or pay a fine of not more than
1347 \$25,000, or by both such imprisonment and fine. A subsequent
1348 violation of this section shall subject the licensee to imprisonment
1349 in the house of correction for not more than 2 years or pay a fine
1350 of not more than \$50,000 or by both such imprisonment and fine.
1351 In any prosecution or other proceeding for the violation of this

1352 subsection, it shall not be a defense for the licensee or his agent to
1353 plead that he believed the person to be 21 years of age or older.

1354 (d) Any person who willfully fails to report, pay, or truthfully
1355 account for and pay over any license registration fee, penalty, fine
1356 or interest thereon imposed by this act, or willfully attempts in
1357 any manner to evade or defeat the license fee, penalty, fine, or
1358 interest thereon or payment thereof shall be punished by a fine to
1359 be determined by the commission.

1360 (e) Any person who willfully resists, prevents, impedes, or
1361 interferes with the commission or the bureau or any of their agents
1362 or employees in the performance of duties pursuant to this act
1363 shall be punished by a fine to be determined by the commission,
1364 in addition to any other penalties prescribed by law.

1365 (f) Any person who willfully violates, attempts to violate, or
1366 conspires to violate any provision of a regulation adopted pur-
1367 suant to this chapter shall be punished by a fine to be determined
1368 by the commission, in addition to any other penalties prescribed
1369 by law.

1370 (g) Any person, as owner, lessee, or employee, whether for hire
1371 or not, either solely or in conjunction with others, who shall do
1372 any of the following without having first procured and thereafter
1373 maintained in effect all licenses required by law:

1374 (1) Deals, operates, carries on, conducts, maintains or exposes
1375 for play in this state any controlled game or gaming equipment
1376 used in connection with any controlled game,

1377 (2) Receives, directly or indirectly, any compensation or reward
1378 or any percentage or share of the revenue, for keeping, running, or
1379 carrying on any controlled game, or owning the real property or
1380 location in which any controlled game occurs, or,

1381 (3) Manufactures or distributes within the territorial boundaries
1382 of the commonwealth any gaming equipment to be used in con-
1383 nection with controlled gaming, shall be punished by imprison-
1384 ment in the state prison for not more than 5 years, or by
1385 imprisonment in the house of corrections for not more than 2½
1386 years, or by a fine of not more than \$25,000 or by both such
1387 imprisonment and fine.

1388 (h) Any person who knowingly permits any controlled game to
1389 be conducted, operated, dealt, or carried on in any house or
1390 building or other premises that he or she owns or leases, in whole

1391 or in part, if that activity is undertaken by a person who is not
1392 licensed as required by state law shall be punished by imprison-
1393 ment in state prison for not more than 5 years, or by imprisonment
1394 in the house of corrections for not more than 1 year, or by a fine
1395 of not less than \$25,000, or by both such imprisonment and fine.

1396 (i) Any former commission member who, within 5 years after
1397 his employment on said commission has ceased, solicits or
1398 accepts employment with or provides consultant services to any
1399 licensee or at any licensed gaming facility shall be deemed to
1400 have violated chapter 268B of the General Laws. Any licensed
1401 gaming facility which employs a former commission member in
1402 violation of this subsection shall be punishable by a fine to be
1403 determined by the commission.

1404 (j) It is unlawful for any person:

1405 (1) To alter or misrepresent the outcome of a game or other
1406 event on which wagers have been made after the outcome is deter-
1407 mined but before it is revealed to the players.

1408 (2) Knowingly to entice or induce another to go to any place
1409 where gaming is being conducted or operated in violation of the
1410 provisions of this chapter, with the intent that the other person
1411 play or participate in that gaming.

1412 (3) To manipulate, with the intent to cheat, any component of a
1413 gaming device in a manner contrary to the designed and normal
1414 operational purpose for the component, including but not limited
1415 to, varying the pull of the handle of an electronic gaming device,
1416 with knowledge that the manipulation affects or reasonably may
1417 tend to affect the outcome of the game or with knowledge of any
1418 event that affects the outcome of the game. As used in this
1419 section, "cheat" means to alter the selection of criteria which
1420 determine: (a) the results of a game; or (b) the amount or fre-
1421 quency of payment in a game.

1422 (4) To have on his person or in his possession on or off the
1423 premises of any licensed gaming establishment any key or device
1424 known to have been designed for the purpose of and suitable for
1425 opening, entering or affecting the operation of any gaming or
1426 equipment, or for removing money or other contents from there,
1427 except where such person is a duly authorized employee of a
1428 licensee acting in furtherance of his employment within a licensed
1429 gaming establishment. A violation of this section shall be punish-

1430 able by imprisonment in the house of corrections for not more
1431 than 5 years or by a fine of not more than \$50,000, or by both
1432 such imprisonment and fine.

1433 (k) Any individual who commits, attempts, or conspires to
1434 commit skimming, as defined in section 1 of this chapter, for a
1435 total value of less than \$1,000 against a gaming licensee or upon
1436 the premises of a licensed gaming facility shall be punished by
1437 imprisonment in the house of corrections for not more than 5
1438 years and by a fine of not more than \$50,000, or by imprisonment
1439 in the house of corrections for not more than 10 years and by a
1440 fine of not more than \$100,000 if the total value is more than
1441 \$1,000.

1442 (l) In addition to any other penalty imposed under this section,
1443 a violation of this section by a licensed gaming establishment
1444 shall be subject to forfeiture to the commonwealth any or all of
1445 the gaming equipment related to the violation. A district attorney
1446 may petition the superior court in the name of the commonwealth
1447 in the nature of a proceeding in rem to order forfeiture of any such
1448 gaming equipment subject to forfeiture under the provisions of
1449 this paragraph. Such petition shall be filed in the court having
1450 jurisdiction over said gaming equipment or having final jurisdic-
1451 tion over any related criminal proceedings brought under any pro-
1452 vision of this chapter. In all such suits where the property is
1453 claimed by any person, other than the commonwealth, the com-
1454 monwealth shall have the burden of proving to the court the exis-
1455 tence of probable cause to institute the action, and any such
1456 claimant shall then have the burden of proving that the gaming
1457 equipment is not forfeitable. The court shall order the common-
1458 wealth to give notice by certified or registered mail to the owner
1459 of said gaming equipment and to such other persons as appear to
1460 have an interest therein, and the court shall promptly but not less
1461 than 2 weeks after notice, hold a hearing on the petition. Upon
1462 the motion of the owner of said gaming equipment the court may
1463 continue the hearing on the petition pending the outcome of any
1464 criminal trial related to the violation of this chapter. At such
1465 hearing the court shall hear evidence and make conclusions of
1466 law, and shall thereupon issue a final order, from which the parties
1467 shall have a right of appeal. In all such suits where a final order
1468 results in forfeiture, said final order shall provide for disposition

1469 of said gaming equipment, by the commonwealth in any manner
1470 not prohibited by law, including official use by an authorized law
1471 enforcement or other public agency, or sale at public auction or by
1472 competitive bidding. The proceeds of any such sale shall be used
1473 to pay the reasonable expenses of the forfeiture proceedings,
1474 seizure, storage, maintenance of custody, advertising, and notice,
1475 and the balance thereof shall be deposited in the gaming regula-
1476 tory account established by this chapter.

1477 Section 12. Violations.

1478 (a) All licensees, all registrants, all persons required to be qual-
1479 ified under this act, and all persons employed by a gaming service
1480 industry licensed pursuant to this act, shall have a duty to inform
1481 the commission or bureau of any action or circumstances, or com-
1482 bination thereof, which they believe would constitute a violation
1483 of this act. No person who so informs the commission or the
1484 bureau shall be discriminated against by an applicant, licensee or
1485 registrant because of the supplying of such information.

1486 (b) Any gaming licensee, or its officers, employees or agents
1487 may question any person in its establishment suspected of vio-
1488 lating any of the provisions of this act. No gaming licensee or any
1489 of its officers, employees or agents is criminally or civilly liable:

1490 (1) On account of any such questioning.

1491 (2) For reporting to the executive director or law enforcement
1492 authorities the person suspected of the violation.

1493 (c) Any gaming licensee or any of his officers, employees or
1494 agents who has reasonable cause for believing that there has been
1495 a violation of this article in his establishment by any person may
1496 take that person into custody and detain him in the establishment
1497 in a reasonable manner and for a reasonable length of time. Such
1498 a taking into custody and detention does not render the licensee or
1499 his officers, employees or agents criminally or civilly liable unless
1500 it is established by clear and convincing evidence that the taking
1501 into custody and detention are unreasonable under all the circum-
1502 stances.

1503 (d) No gaming licensee or its officers, employees or agents are
1504 entitled to the immunity from liability provided for in subsection
1505 (c) unless there is displayed in a conspicuous place in his estab-
1506 lishment a notice in boldface type clearly legible and in substan-
1507 tially this form: Any gaming licensee, or any of his officers,

1508 employees or agents who has reasonable cause for believing that
1509 any person has violated any provision of the Massachusetts
1510 gaming laws, which prohibits cheating in gaming, may detain that
1511 person in the establishment.

1512 Section 13. Gaming taxes and fees.

1513 (a) There is hereby established a gaming investigative fund.
1514 Any and all expenses associated with the licensing of any appli-
1515 cant and monitoring of any licensee shall be borne by the appli-
1516 cant or licensee. Pursuant to its regulations, the commission shall
1517 require each applicant to deposit with the commission, together
1518 with the application therefor, an application fee which shall be
1519 deposited in the gaming investigative account. Such fee shall
1520 constitute the anticipated costs and charges incurred in the investi-
1521 gation and processing of the application, and any additional sums
1522 as are required by the commission and the bureau to pay final
1523 costs and charges. Expenses may be advanced from the gaming
1524 investigative account by the commission to the bureau. Any
1525 money received from an applicant in excess of the costs and
1526 charges incurred in the investigation or the processing of the
1527 application shall be refunded pursuant to regulations adopted by
1528 the commission. At the conclusion of the investigation, the
1529 bureau shall provide the applicant a written accounting of the
1530 costs and charges so incurred.

1531 (b) There is hereby established a gaming oversight fund.
1532 Monies deposited in the gaming oversight account shall be
1533 expended for the support of the commission and bureau in car-
1534 rying out their duties and responsibilities under this chapter
1535 including, but not limited to, the directing or hiring of gaming law
1536 enforcement. The commission and the bureau shall issue regula-
1537 tions which apportion all expenses of the commission and the
1538 bureau among all gaming licensees on a pro rata share of the over-
1539 sight costs of the commission. Such costs shall be fair and rea-
1540 sonable.

1541 (c) All fees, revenue, and penalties collected pursuant to this
1542 chapter, unless specified otherwise, shall be deposited in the
1543 general fund. Funds deposited in the general fund, pursuant to
1544 this chapter, shall, subject to appropriation, be distributed as
1545 stated in this section.

1546 (d) All revenue received from any game or gaming device
1547 which is leased for operation on the premises of the licensee-
1548 owner to a person other than the owner thereof, or located in an
1549 area or space on the premises which is leased by the licensee-
1550 owner to any such person, must be attributed to the owner for the
1551 purposes of this section and be counted as part of the gaming rev-
1552 enue of the owner. The lessee is liable to the owner for his pro-
1553 portionate share of the license fees.

1554 (e) All gaming license fees and penalties imposed by the provi-
1555 sions of this chapter must be paid to the state treasurer to be
1556 deposited into the general fund. Fees shall be paid annually on or
1557 before June twentieth, unless specified otherwise. Penalties
1558 imposed under this chapter shall be paid to the commission within
1559 30 days after the final determination of the violation.

1560 (f) Each gaming licensee, including racing meeting licensees,
1561 shall pay the following amounts on a weekly basis:

1562 (1) Fifty percent of the gaming revenue derived from electronic
1563 gaming devices located in such gaming facility, payable to the
1564 commission. Seventy-five percent of the revenue collected pur-
1565 suant to this subsection shall be deposited in the general fund.
1566 Twenty-five percent of the revenue collected pursuant to this sub-
1567 section shall be deposited in the lottery fund for full distribution
1568 to all communities in the commonwealth, pursuant to the lottery
1569 aid formula, so-called.

1570 (2) Two percent of the gaming revenue derived from electronic
1571 gaming devices located in such gaming facility, payable to the
1572 community in which the facility is located; provided, that if the
1573 facility is located in more than one community, such fee shall be
1574 divided and distributed proportionally to each community as fairly
1575 determined by the commission.

1576 (3) One percent of the gaming revenue derived from electronic
1577 gaming devices located in such gaming facility, which shall be
1578 divided and distributed proportionally, as determined by the com-
1579 mission, to each community contiguous to the community or com-
1580 munities in which the facility is located.

1581 (g) Each racing meeting licensee shall also pay to the commis-
1582 sion, as the commission shall direct, an amount equal to 35 per-
1583 cent of 1 percent (.35%) of the annual gaming revenue derived
1584 from electronic gaming devices located in such gaming facility to

1585 be used exclusively in preventing and treating compulsive gam-
1586 bling behavior. Furthermore, the department of public health is
1587 hereby authorized and directed to conduct a comprehensive study
1588 to measure the prevalence of compulsive, obsessive behaviors in
1589 Massachusetts; to measure the prevalence of problem gambling in
1590 Massachusetts; to measure the prevalence of underage problem
1591 gambling in Massachusetts; and, to measure the social cost of
1592 problem gambling in Massachusetts; and to develop appropriate
1593 treatment modalities and public education strategies that address
1594 the findings of said study.

1595 (h) Each racing meeting licensee shall pay to the commission,
1596 as the commission shall direct, an amount equal to 25 percent of 1
1597 percent (.25%) of the annual gaming revenue derived from elec-
1598 tronic gaming devices located in such facility to be used exclu-
1599 sively for law enforcement purposes including appropriate
1600 contributions annually to the budgets of the attorney general, dis-
1601 trict attorneys and courts.

1602 (i) In the event the annual financial performance of the Massa-
1603 chusetts state lottery does not maintain the same rate of growth as
1604 averaged by the 3 previous years, the commission shall assess
1605 each licensed gaming entity for the total monetary shortfall, on a
1606 proportional basis. The proportional assessment to be paid to the
1607 state in addition to all other taxes and fees paid by each gaming
1608 establishment shall be determined by calculating the percentage of
1609 annual gaming revenues of each gaming entity of the total annual
1610 gaming revenues in the Commonwealth for the preceding fiscal
1611 year.

1612 (j) Two percent of the net gaming revenue derived from elec-
1613 tronic gaming devices shall be deposited in a special fund estab-
1614 lished by the licensee, and used for payment of regular
1615 thoroughbred horse purses.

1616 (k) No municipality or other political subdivision shall impose
1617 any additional license fee or gaming tax on any person or equip-
1618 ment licensed to conduct gaming pursuant to this chapter.
1619 Nothing herein precludes the imposition of customary local taxes
1620 and fees applicable to other non-gaming businesses in the munic-
1621 ipality or political subdivision.

1622 Section 14. Internal control system.

1623 (a) Each gaming licensee shall adopt an internal control system
1624 which shall include but not be limited to provisions for the safe-
1625 guarding of its assets and revenues, especially the recording of
1626 cash and evidences of indebtedness; the provision of reliable
1627 records accounts and reports of transactions, operations and
1628 events, including reports to the executive director and the com-
1629 mission.

1630 (b) The internal control system must be designed to reasonably
1631 ensure that assets are safeguarded; financial records are accurate
1632 and reliable; transactions are performed only in accordance with
1633 management's general or specific authorization; transactions are
1634 recorded adequately to permit proper reporting of gaming revenue
1635 and of fees and taxes, and to maintain accountability for assets;
1636 access to assets is permitted only in accordance with manage-
1637 ment's specific authorization; recorded accountability for assets is
1638 compared with actual assets at reasonable intervals and appro-
1639 priate action is taken with respect to any discrepancies; functions,
1640 duties and responsibilities are appropriately segregated and per-
1641 formed in accordance with sound practices by competent, quali-
1642 fied personnel.

1643 (c) Each gaming licensee and each applicant for a gaming
1644 license shall describe, in such manner as the executive director
1645 may approve or require, its administrative and accounting proce-
1646 dures in detail in a written system of internal control. Each
1647 gaming licensee and applicant for a gaming license shall submit a
1648 copy of its written system to the executive director. Each written
1649 system must include:

1650 (1) An organizational chart depicting appropriate segregation of
1651 functions and responsibilities.

1652 (2) A description of the duties and responsibilities of each posi-
1653 tion shown on the organizational chart.

1654 (3) A detailed, narrative description of the administrative and
1655 accounting procedures designed to satisfy the requirements of
1656 subsection (a).

1657 (4) A written statement signed by the licensee's chief financial
1658 officer and either the licensee's chief executive officer or a
1659 licensed owner attesting that the system satisfies the requirements
1660 of this section.

1661 (5) If the written system is submitted by an applicant, a letter
1662 from an independent accountant stating that the applicant's written
1663 system has been reviewed by the accountant and complies with
1664 the requirements of this section.

1665 (6) Such other items as the executive director may require.

1666 (d) The executive director, with the advice of the commission,
1667 shall adopt and publish minimum standards for internal control
1668 procedures.

1669 Section 15. Gaming debts.

1670 (a) Whenever a licensee refuses payment of alleged winnings to
1671 a patron, the licensee and the patron are unable to resolve the dis-
1672 pute to the satisfaction of the patron and the dispute involves: (1)
1673 at least \$500, the licensee shall immediately notify the bureau; or
1674 (2) less than \$500, the licensee shall inform the patron of his right
1675 to request that the bureau conduct an investigation. The bureau
1676 shall conduct whatever investigation it deems necessary and shall
1677 determine, in its sole discretion and without need for a hearing,
1678 whether payment should be done. In the event the bureau deter-
1679 mines that payment should be made, all costs of the investigation
1680 shall be borne by the licensee. Failure of the licensee to notify the
1681 bureau or inform the patron as provided herein shall subject the
1682 licensee to disciplinary action.

1683 (b) Any party aggrieved by the determination of the bureau
1684 may file a petition for reconsideration with the commission setting
1685 forth the basis of the request for reconsideration. Any hearing for
1686 reconsideration shall be conducted pursuant to regulations
1687 adopted by the commission.

1688 (c) A credit instrument evidencing a gaming debt may be
1689 enforced by a licensee by legal process.

1690 (d) A licensee or person acting on the licensee's behalf may
1691 accept an incomplete credit instrument that is signed by a patron
1692 and states the amount of the debt in figures and may complete the
1693 instrument as is necessary for the instrument to be presented for
1694 payment.

1695 (e) A licensee or a person acting on behalf of a licensee may
1696 not accept a credit instrument, which is incomplete, except as
1697 authorized in subsection (d) of this section. Additionally, a
1698 licensee or a person acting on his behalf may accept a credit
1699 instrument that is payable to an affiliate or affiliated company or

1700 may complete a credit instrument in the name of an affiliate or
1701 affiliated company as payout if the credit instrument otherwise
1702 complies with this section and the records of the affiliate or an
1703 affiliated company pertaining to the credit instrument are made
1704 available to the executive director upon request.

1705 (f) This section does not prohibit the establishment of an
1706 account by a deposit of cash, recognized traveler's check, or any
1707 other instrument which is equivalent to cash.

1708 Section 16. Immediate revenue address.

1709 Notwithstanding any general or special law to the contrary,
1710 given that the commission and bureau will not be ready to con-
1711 vene and conduct its respective business and functions for some
1712 time after the enactment of this legislation and given the needs of
1713 the commonwealth of funds in order to operate and conduct its
1714 business, each racing meeting licensee shall be granted a tempo-
1715 rary license and deemed to be a licensee for the purposes of this
1716 act immediately upon the enactment of this act; provided a letter
1717 of intent has been submitted to the secretary of administration and
1718 finance. The functions of the commission and bureau shall be
1719 maintained and operated by the executive office of administration
1720 and finance, under the control of the secretary, until such time as
1721 said commission and bureau are operating according to the terms
1722 of this act; provided, however, that in no event shall the racing
1723 meeting licensees be deemed automatically to be licensees under
1724 this section 6 months after the enactment of this act; provided,
1725 further, that the commission and bureau shall have complete
1726 authority to conduct their respective functions to ensure compli-
1727 ance with this act when they are respectively operational.

1728 Section 17. Repeal of section 16.

1729 Section 16 of this act shall be repealed six months after the
1730 enactment of this act.

1731 Section 18. Severability.

1732 The invalidity of any section, sections or subsections or parts of
1733 this act shall not affect the validity of the remainder of this act.

1734 Section 19. Effective date.

1735 This act shall take effect immediately upon its passage.